

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOHN LENNARTSON, RITA ANDREWS,  
CASSIE ASLESON, SUSAN SHAY NOHR,  
on behalf of themselves and all others  
similarly situated,

Plaintiffs,

v.

PAPA MURPHY'S HOLDINGS, INC.; and  
PAPA MURPHY'S INTERNATIONAL,  
L.L.C.,

Defendants.

Case No. 3:15-cv-05307-RBL

**DECLARATION OF TIM  
CUNNINGHAM, OF CPT GROUP, INC.,  
CLAIMS ADMINISTRATOR, IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT**

I, Tim Cunningham, declare as follows:

1. I am a Supervising Case Manager for CPT Group, Inc., the Court-appointed class action claims administrator in the above-captioned matter. I have personal knowledge of the facts set forth in this Declaration, which are true and correct as of the date of this Declaration, and, if called as a witness, could and would testify competently thereto.

2. CPT Group, Inc. ("Claims Administrator") has extensive experience in providing notice of class actions and administering class action settlements. In the past 30 years, we have provided notification and/or administration services in over one thousand class action cases. Attached hereto is the Claims Administrator's curriculum vitae (Exhibit A). The Claims

DECLARATION OF TIM CUNNINGHAM IN SUPORT OF  
PLAINTIFFS' MOTION AND MEMORANDUM OF LAW IN  
SUPPORT OF FINAL APPROVAL OF SETTLEMENT  
(15-CV-05307-RBL) 1

**KELLER ROHRBACK L.L.P.**

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1 Administrator was selected by the Parties, and approved by this Court, to provide notice of the  
2 settlement and to process claims, exclusions, and responses in this action. In this capacity, the  
3 Claims Administrator was and is charged with (a) mailing or emailing to Class Members the  
4 Notice; (b) processing undeliverable mail and locating updated addresses for Class Members;  
5 (c) receiving other communications about the settlement; (d) notifying the parties of the number  
6 of Class Members that filed timely claims, exclusions, or objections; (e) establishing and  
7 maintaining a toll-free case hotline through which Class Members could speak to case  
8 representatives regarding case-specific questions; and (f) issuing and mailing settlement checks  
9 to Class Members.

10 3. The Claims Administrator was and is also charged with establishing and  
11 maintaining a neutral case website where Class Members may access relevant documentation  
12 (such as the Settlement Agreement, Long Form Notice, Claim Form, etc.) and submit electronic  
13 claims ([www.PapaMurphysTCPAsettlement.com](http://www.PapaMurphysTCPAsettlement.com)). The website address was prominently  
14 displayed in all printed notice documents. Attached hereto are screen shots of the website  
15 (Exhibit B). There have been twenty-seven thousand five hundred eight (27,508) unique  
16 visitors to the case website.

17 4. The Claims Administrator received the Court-approved text for the Notice from  
18 Counsel and prepared a draft of the Notice for mailing or emailing to Class Members. Attached  
19 hereto is a true and correct copy of the final form of the Notice Postcard (Exhibit C) and Notice  
20 Email (Exhibit D) that was sent to the Class Members. The notices were designed to capture  
21 Class Members' attention and provide them with information necessary to understand their  
22 rights and options. They also directed Class Members to the case website where the Long Form  
23 Notice was available. Attached hereto is a true and correct copy of the final Long Form Notice  
24 (Exhibit E).

25 5. Federal Rule of Civil Procedure 23 directs that the best notice practicable under  
26 the circumstances must include "individual notice to all members who can be identified through

1 reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). The notice in this case satisfied this  
2 requirement. As described below, the Claims Administrator received data that included the  
3 cellular telephone numbers and available email addresses for Class Members. For cellular  
4 telephone numbers, the Claims Administrator used best efforts to determine associated names  
5 and physical mailing addresses. These mailing addresses and the available email addresses  
6 were then used to send individual notice to Class Members. These efforts resulted in the Claims  
7 Administrator sending nine hundred eighteen thousand six hundred ninety-six (918,696)  
8 individual notices, which is 81.17% of the number of Class Members in the class list. After  
9 accounting for the undeliverable individual notices, a total of eight hundred eighty-eight  
10 thousand two hundred forty-six (888,246) individual notices were sent, which is 78.47% of the  
11 number of Class Members in the class list. This is well within the acceptable range. *See* The  
12 Federal Judicial Center, *Judges’ Class Action Notice and Claims Process Checklist and Plain*  
13 *Language Guide* (2010) at 1 (“A high percentage (e.g., between 70–95%) can often reasonably  
14 be reached by a notice campaign.”). The case website was also accessed by twenty-seven  
15 thousand five hundred eight (27,508) unique visitors.

16 6. On April 13, 2018, the Claims Administrator received a data file from Defense  
17 Counsel which contained a telephone number for each Class Member.

18 7. On May 3, 2018, the Claims Administrator mailed all required notices under the  
19 Class Action Fairness Act (“CAFA”). The Claims Administrator sent out a total of 56 CAFA  
20 notifications (to the Attorney General in all 50 states, the District of Columbia Attorney  
21 General, the U.S. Attorney General, and to the Attorney Generals in 4 territories: Puerto Rico,  
22 Guam, Virgin Islands, and American Samoa).

23 8. On May 22, 2018, the Claims Administrator received a data file from Defense  
24 Counsel which contained email addresses associated with certain telephone numbers.

25 9. Claims Administrator performed a reverse append (“reverse look-up”) on the  
26 telephone numbers without email addresses in order to obtain names and addresses for mailing.

1 A reverse lookup searches a variety of public databases in order to retrieve the name and  
2 address associated with a particular telephone number. The finalized class list contained one  
3 million one hundred thirty-one thousand eight hundred forty-one (1,131,841) Class Members.

4 10. On June 8, 2018, the Claims Administrator caused a National Change of Address  
5 (NCOA) search to be performed in an attempt to update the class list of addresses as accurately  
6 as possible. A search of this database provides updated addresses for any individual who has  
7 moved in the previous four years and notified the U.S. Postal Service of his or her change of  
8 address.

9 11. On June 15, 2018, the Notice Postcard was mailed via U.S. first-class mail to  
10 seven hundred five thousand nine hundred fifty-four (705,954) Class Members for whom a  
11 name and mailing address was identified via reverse append effort. Also, on June 15, 2018, an  
12 email notification was sent to two hundred twelve thousand seven hundred forty-two (212,742)  
13 Class Members for whom email addresses were provided. There were two hundred thirteen  
14 thousand one hundred forty-five (213,145) Class Members for whom a mailing address or email  
15 address was not identified.

16 12. The Notice Postcard and email notification included two (2) \$5.00 Merchandise  
17 Voucher codes which can be used on all online orders through Papa Murphy's website and also  
18 a Class Member Passcode to access the settlement website to submit a claim for a \$10.00 Cash  
19 Award. The Notice Postcard and email notification indicated a deadline date of August 14,  
20 2018 at 11:59 p.m. Eastern Standard Time to submit a claim, request exclusion, or object to the  
21 Settlement.

22 13. A total of twenty-six thousand nine hundred twenty-three (26,923) emails were  
23 returned as undeliverable. The Claims Administrator has re-sent a total of six thousand nine  
24 hundred ninety-five (6,995) Email Notices to alternate addresses provided by Defense Counsel.  
25 A total of nineteen thousand nine hundred twenty-eight (19,928) Email Notices were ultimately  
26 undeliverable.

1           14.     A total of twelve thousand two hundred sixty-three (12,263) Notice Postcards  
2     were returned to the Claims Administrator by the Post Office, none of which had a forwarding  
3     address affixed thereto. The Claims Administrator performed a Skip Trace on all returned mail  
4     without a forwarding address using Accurint, one of the most comprehensive address databases  
5     available. It utilizes hundreds of different databases supplied by credit-reporting agencies,  
6     public records, and a variety of other national databases.

7           15.     As a result of either Skip Trace or re-mail requests from counsel or Class  
8     Members, a total of one thousand seven hundred forty-one (1,741) Postcard Notices have been  
9     re-mailed to date. A total of ten thousand five hundred twenty-two (10,522) Postcard Notices  
10    were ultimately undeliverable, as no better address was provided from the Post Office or  
11    obtained through Skip Trace.

12          16.     The Claims Administrator has received seven thousand seven hundred twenty-  
13    eight (7,728) responses of which seven thousand seven hundred eleven (7,711) are claims.

14          17.     Of the seven thousand seven hundred eleven (7,711) claims, there are one  
15    hundred twenty-eight (128) late claims and three hundred sixty-seven (367) deficient claims.  
16    The deficient claims appear to be from non-class members as Claims Administrator was unable  
17    to locate these individuals on the Class List.

18          18.     The Claims Administrator has received four (4) requests for exclusion (Danette  
19    Sandoval, Paul J. Miller, Christopher Akinyemi, and Rishi Chopra). Of the four (4) requests for  
20    exclusion, two (2) are deficient (Danette Sandoval and Paul J. Miller) due to the request being  
21    submitted via email rather than via U.S. mail and one (1) is deficient as the request is from a  
22    non-class member (Christopher Akinyemi). The Claims Administrator was unable to locate this  
23    individual in the Class List via name, phone number, email address, or mailing address. Emails  
24    have been sent to Danette Sandoval and Paul J. Miller requesting a cure. The deficiencies have  
25    not been corrected. Attached hereto are copies of the requests for exclusion (Exhibit F).  
26

19. The Claims Administrator has received five (5) potential requests for objection (Erik Guttormsen, Steve Ford, Jennifer Manzella, Nathan Street, and Patrick S. Sweeney). All five (5) potential requests for objection are deficient due to the request being submitted via email rather than via U.S. mail and for not conforming to the requirements for objection submission. Additionally, of the five (5) potential objections, one (1) was untimely and is from a non-class member (Patrick S. Sweeney). Per review, the Claims Administrator was unable to locate this individual in the Class List via name, phone number, email address, or mailing address. Attached hereto are copies of the potential objection requests (Exhibit G).

20. The Claims Administrator has received eight (8) invalid responses due to duplicate submissions from the same Class Member.

21. The Claims Administrator has received two hundred two (202) calls to the toll-free hotline established for the case, from class members with various questions about the settlement.

22. If the deficient and late claims are accepted, the Claims Administrator will report a total of seven thousand seven hundred eleven (7,711) claimed Cash Awards.

23. The Claims Administrator has been paid an agreed-upon fee of \$400,000.00, for fees associated with the administration of the settlement. This includes all costs incurred to date, as well as the estimated costs involved in completing the settlement.

I declare under penalty of perjury under the laws of the United States, the State of California, and the State of Washington, that the foregoing is true and correct and that this declaration is executed on this 6<sup>th</sup> day of September, 2018, at Irvine, California.

  
Tim Cunningham

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